

Attorney Docket No. 020447

Serial No. 10/634,322

REMARKS/ARGUMENTS

The examiner rejected claims 1-45 and 58 under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which the applicant regards as the invention.

The applicant has amended claims 1, 2-4, 6-11, 14-20, 22-24, 29, 31-33, 37-38, 46-47, and 57 to overcome the examiner's rejection of claims 1-45. The applicant traverses the examiner's rejection of claim 58 because "base station almanac information" is mentioned the first time in claim 58 and does not refer to a previous claim. Hence, claim 58 does not require antecedent basis for the limitation "base station almanac information."

The examiner rejected claims 1-6, 10-13, 21, 28-38, 46-47, and 57 under 35 U.S.C. 102(e) as being anticipated by Hendrickson et al. (U.S. Patent No. 6,754,470 B2).

The applicant combines dependent claims 2 and 5 into independent claim 1, and traverses the examiner's rejection of the combination of claims 1, 2, and 5 (i.e., rejected claim 5) into presently amended independent claim 1. The examiner states that Hendrickson et al. teaches a network event, e.g., the event data 240a in Fig. 2, and in col. 15, lines 38-42.

According to Hendrickson et al., the "event data 240a includes any data associated with activity on the device by a user. (col. 10, lines 1-2) (emphasis added) Currently amended claim 1 claims, in part, "detecting an occurrence of a network event," which is different than Hendrickson et al.'s. "activity on the device by a user."

At col. 15, lines 38-42, Hendrickson et al., teaches "analyzing performance metrics related to the operator's networks including, but not limited to, RSSI, access failures, finger assignments, handoff and vocoder activity, transmit and receive power, frame error rates, dropped calls, blocked calls, connection speeds, internet or Web application download speeds, and secure transaction speeds." (emphasis added) Currently amended claim 1 claims, in part, "detecting an occurrence of a network event," which is different than Hendrickson et al.'s. "analyzing performance metrics related to the operator's networks." In other words, Hendrickson et al.'s. "performance metrics related to the operator's networks" or the "network parameter data 220a" in Fig. 2 is not a triggering event, but merely a list of network parameters. Further, "analyzing" the network parameters is not the same as the claimed "detecting an occurrence of a network event."

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Hendrickson et al. teaches: "Data gathering software 110 may be activated by user event driven activity, or, alternatively, control center driven activity such as in cases in which commands are sent to the data gathering software via server, or like mechanism, to collect certain data after which collected data is routed to an intermediate server, or like mechanism, that then feeds data to the control center." (col. 9, lines 45-51) (emphasis added) Currently amended claim 1 claims, in part, "detecting an occurrence of a network event," which is different than Hendrickson et al.'s. "user event driven activity, or, alternatively, control center driven activity." The present application teaches that the method of FIG. 2 may be triggered by a network event (par. 40), a subscriber or user event (par. 41), or an expiration of a timer (par. 42). Claim 1 claims the "network event." Hendrickson et al.'s. "control center driven activity" is not the claimed "network event" because the control center merely sends commands to the data gathering software to collect certain data, and is not described as a triggering network event. Further, Hendrickson et al.'s. "user even driven activity" is described as "activity on the device by a user," (col. 10, lines 1-27) which does not teach the claimed "network event."

The applicant respectfully submits that the examiner mischaracterized Hendrickson et al in the present rejection with regard to claim 5, and requests that the examiner consider withdrawing the present rejection of claim 5, which is now incorporated into claim 1. Therefore, the applicant submits that claims 1-4, 6-19, and 28-58 are now in a condition for allowance.

The applicant combined original claims 1, 2, and 20 to form present independent claim 20, which is indicated by the examiner as allowable.

The applicant combined original claims 1, 2, and 22 to form present independent claim 22, which is indicated by the examiner as allowable.

The applicant combined original claims 1, 2, and 23 to form present independent claim 23, which is indicated by the examiner as allowable.

The applicant combined original claims 1, 2, and 24 to form present independent claim 24, which is indicated by the examiner as allowable. Therefore, dependent claims 25-27 should also be allowable.

The applicant cancelled, without prejudice, claims 2, 5, and 21.

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In view of the foregoing, Applicant submits that all pending claims are in condition for allowance. Applicant respectfully requests the reconsideration and reexamination of this application and the timely allowance of the pending claims. Should any issues remain unresolved, the Examiner is encouraged to telephone the undersigned at the number provided below.

If there are any other fees due in connection with the filing of the response, please charge the fees to our Deposit Account No. 17-0026. If a fee is required for an extension of time under 37 CFR 1.136 not accounted for above, such an extension is requested and the fee should also be charged to our Deposit Account.

Applicants therefore respectfully request that a timely Notice of Allowance be issued in this case.

Respectfully submitted,

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